IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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TUESDAY, THE SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.2239 OF 2006

Between**:**

Vetsa Sesha Satyanarayana … Petitioner

Versus

1. Kakinada Municipal Corporation,

represented by its Commissioner,

Kakinada, East Godavari district.

2. Town Planning Officer,

Kakinada Municipal Corporation,

Kakinada, East Godavari district. … Respondents

Counsel for the Petitioner: Mr.E.V.V.S.Ravi Kumar

Counsel for the Respondents: Mr.S.Nageswara Reddy

O R D E R :

This writ petition is filed to declare the action of the respondents in attempting to demolish the building bearing Door Nos. 28-1-21/1 and 28-1-21/2 situate at main road Kakinada, East Godavari district, without following the procedure laid down in Kakinada Municipal Corporation Act or any other Act, as arbitrary and violative of

principles of natural justice and also Article 19 (1) (g) of the Constitution of India and further prayed to direct the respondents to follow due process of law before taking any further steps towards demolition.

It is stated that the petitioner is the owner of the building bearing Door Nos.28-1-21/1 and 28-1-21/2 situate at main road, Kakinada, East Godavari district. The petitioner acquired the said property under a registered partition deed dated 25-4-1978. Since then, the petitioner is in possession of the property and paying taxes regularly to the first respondent. The petitioner is residing in the first floor of the premises.

It is stated that the respondents earmarked the building to a width of about 10 feet and the officers of the respondents orally informed the petitioner that they would start demolishing the petitioner's building next week.

The grievance of the petitioner is that the respondents have not issued any notice before deciding to demolish his building and they are trying to demolish the building for the purpose of widening the road without acquiring the property as contemplated under Chapter V of Hyderabad Municipal Corporation Act or under Land Acquisition Act, without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act').

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondents to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case, the respondents are directed not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess him without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of. No costs.

FEBRUARY 7th, 2005. ----------

I s L. V. ESWARAIAH, J.

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